
HOUSE BILL No. 1223

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-5-2-22; IC 3-8-1-21; IC 3-10; IC 3-11-2-12; IC 5-13; IC 5-15-6-1; IC 6-1.1-4-31; IC 10-17-9-3; IC 12-20-20-2; IC 12-30; IC 13-11-2-74; IC 22-9-1-12.1; IC 32-26-2-2; IC 34-17-2-1; IC 36-1; IC 36-2; IC 36-5-1-20; IC 36-9-13-2.

Synopsis: County government reorganization. Provides that in a county in which a second class city with a population of at least 200,000 is located: (1) the board of county commissioners is eliminated effective January 1, 2015; (2) a single county commissioner shall be elected in 2014 and every four years thereafter; and (3) after December 31, 2014, the county council is the county legislative body as well as the county fiscal body. Specifies that the term of each county commissioner elected in 2012 is two years rather than four years.

Effective: Upon passage; July 1, 2010.

GiaQuinta, Borrer, Moses, Bell

January 11, 2010, read first time and referred to Committee on Government and Regulatory Reform.

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Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

HOUSE BILL No. 1223

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-5-2-22 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2010]: Sec. 22. **(a)** "Executive" means **the**
3 **following:**

4 (1) **Except as provided in subsection (b), the** board of county
5 commissioners, for a county not having a consolidated city.

6 (2) **The** mayor of the consolidated city, for a county having a
7 consolidated city.

8 (3) **The** mayor, for a city.

9 (4) **The** president of the town council, for a town. ~~or~~

10 (5) **A** trustee, for a township.

11 **(b) In the case of a county subject to IC 36-2-2.5, "executive"**
12 **means after December 31, 2014, the county commissioner elected**
13 **under IC 3-10-2-13.**

14 SECTION 2. IC 3-8-1-21 IS AMENDED TO READ AS FOLLOWS
15 [EFFECTIVE UPON PASSAGE]: Sec. 21. **(a)** A candidate for the
16 office of county commissioner must:

17 (1) have resided in the county for at least one (1) year before the

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election, as provided in Article 6, Section 4 of the Constitution of the State of Indiana; and

(2) have resided in the district in which seeking election, if applicable, for at least six (6) months before the election.

(b) This subsection applies to elections after 2012 in a county subject to IC 36-2-2.5. A candidate for the office of county commissioner must have resided in the county for at least one (1) year before the election, as provided in Article 6, Section 4 of the Constitution of the State of Indiana.

SECTION 3. IC 3-10-1-19, AS AMENDED BY P.L.146-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 19. (a) The ballot for a primary election shall be printed in substantially the following form for all the offices for which candidates have qualified under IC 3-8:

OFFICIAL PRIMARY BALLOT

_____ Party

For paper ballots, print: To vote for a person, make a voting mark (X or ✓) on or in the box before the person's name in the proper column. For optical scan ballots, print: To vote for a person, darken or shade in the circle, oval, or square (or draw a line to connect the arrow) that precedes the person's name in the proper column. For optical scan ballots that do not contain a candidate's name, print: To vote for a person, darken or shade in the oval that precedes the number assigned to the person's name in the proper column. For electronic voting systems, print: To vote for a person, touch the screen (or press the button) in the location indicated.

Vote for one (1) only

Representative in Congress

☐ (1) AB _____

☐ (2) CD _____

☐ (3) EF _____

☐ (4) GH _____

(b) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

(1) Federal and state offices:

(A) President of the United States.

(B) United States Senator.

(C) Governor.

(D) United States Representative.

(2) Legislative offices:

(A) State senator.

(B) State representative.

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(3) Circuit offices and county judicial offices:

(A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.

(B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.

(C) Judge of the probate court.

(D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.

(E) Prosecuting attorney.

(F) Circuit court clerk.

(4) County offices:

(A) County auditor.

(B) County recorder.

(C) County treasurer.

(D) County sheriff.

(E) County coroner.

(F) County surveyor.

(G) County assessor.

(H) County commissioner. **In the case of a county subject to IC 36-2-2.5, only one (1) county commissioner shall be elected in 2014 and thereafter.**

(I) County council member.

(5) Township offices:

(A) Township assessor (only in a township referred to in IC 36-6-5-1(d)).

(B) Township trustee.

(C) Township board member.

(D) Judge of the small claims court.

(E) Constable of the small claims court.

(6) City offices:

(A) Mayor.

(B) Clerk or clerk-treasurer.

(C) Judge of the city court.

(D) City-county council member or common council member.

(7) Town offices:

(A) Clerk-treasurer.

(B) Judge of the town court.

(C) Town council member.

(c) The political party offices with candidates for election shall be placed on the primary election ballot in the following order after the

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offices described in subsection (b):

- (1) Precinct committeeman.
- (2) State convention delegate.

(d) The following offices and public questions shall be placed on the primary election ballot in the following order after the offices described in subsection (c):

- (1) School board offices to be elected at the primary election.
- (2) Other local offices to be elected at the primary election.
- (3) Local public questions.

(e) The offices and public questions described in subsection (d) shall be placed:

- (1) in a separate column on the ballot if voting is by paper ballot;
- (2) after the offices described in subsection (c) in the form specified in IC 3-11-13-11 if voting is by ballot card; or
- (3) either:
 - (A) on a separate screen for each office or public question; or
 - (B) after the offices described in subsection (c) in the form specified in IC 3-11-14-3.5;

if voting is by an electronic voting system.

(f) A public question shall be placed on the primary election ballot in the following form:

(The explanatory text for the public question,
if required by law.)
"Shall (insert public question)?"

☐ YES

☐ NO

SECTION 4. IC 3-10-2-13, AS AMENDED BY P.L.146-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 13. The following public officials shall be elected at the general election before their terms of office expire and every four (4) years thereafter:

- (1) Clerk of the circuit court.
- (2) County auditor.
- (3) County recorder.
- (4) County treasurer.
- (5) County sheriff.
- (6) County coroner.
- (7) County surveyor.
- (8) County assessor.
- (9) County commissioner. **In the case of a county subject to IC 36-2-2.5, only one (1) county commissioner shall be elected in 2014 and thereafter.**

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- (10) County council member.
- (11) Township trustee.
- (12) Township board member.
- (13) Township assessor (only in a township referred to in IC 36-6-5-1(d)).
- (14) Judge of a small claims court.
- (15) Constable of a small claims court.

SECTION 5. IC 3-11-2-12, AS AMENDED BY P.L.146-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. The following offices shall be placed on the general election ballot in the following order:

- (1) Federal and state offices:
 - (A) President and Vice President of the United States.
 - (B) United States Senator.
 - (C) Governor and lieutenant governor.
 - (D) Secretary of state.
 - (E) Auditor of state.
 - (F) Treasurer of state.
 - (G) Attorney general.
 - (H) Superintendent of public instruction.
 - (I) United States Representative.
- (2) Legislative offices:
 - (A) State senator.
 - (B) State representative.
- (3) Circuit offices and county judicial offices:
 - (A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.
 - (B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.
 - (C) Judge of the probate court.
 - (D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.
 - (E) Prosecuting attorney.
 - (F) Clerk of the circuit court.
- (4) County offices:
 - (A) County auditor.
 - (B) County recorder.
 - (C) County treasurer.
 - (D) County sheriff.
 - (E) County coroner.

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(F) County surveyor.

(G) County assessor.

(H) County commissioner. **In the case of a county subject to IC 36-2-2.5, only one (1) county commissioner shall be elected in 2014 and thereafter.**

(I) County council member.

(5) Township offices:

(A) Township assessor (only in a township referred to in IC 36-6-5-1(d)).

(B) Township trustee.

(C) Township board member.

(D) Judge of the small claims court.

(E) Constable of the small claims court.

(6) City offices:

(A) Mayor.

(B) Clerk or clerk-treasurer.

(C) Judge of the city court.

(D) City-county council member or common council member.

(7) Town offices:

(A) Clerk-treasurer.

(B) Judge of the town court.

(C) Town council member.

SECTION 6. IC 5-13-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Except as provided in section 2 of this chapter:

(1) the board of commissioners **(in a county not subject to IC 36-2-2.5) or the county council (in a county subject to IC 36-2-2.5 after December 31, 2014);** and

(2) the county treasurer in each county;

together constitute the county board of finance. The board has supervision of the revocation of public depositories for all public funds of the county.

SECTION 7. IC 5-13-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as provided in subsection (b), in addition to any other statutory power to make investments, each county treasurer and each fiscal officer of any political subdivision other than a county, under the guidelines established, respectively, by:

(1) the board of county commissioners **(in a county not subject to IC 36-2-2.5) or the county council (in a county subject to IC 36-2-2.5 after December 31, 2014)** of each county; and

(2) the fiscal body of any other subdivision;

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and any other officer of a local government entity authorized by statute or court order to make investments, may invest any funds held by each in accordance with this chapter.

(b) The treasurer of state may invest funds under section 2.5 of this chapter.

(c) The funds that may be invested under this chapter include money raised by bonds issued for a future specific purpose, sinking funds, depreciation reserve funds, gift, bequest, or endowment, and any other funds available for investment.

SECTION 8. IC 5-13-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The board of county commissioners **(in a county not subject to IC 36-2-2.5) or the county council (in a county subject to IC 36-2-2.5 after December 31, 2014)** of each county, and the fiscal body of each political subdivision other than a county, may by ordinance or resolution authorize the investing officer of each, respectively, to invest in certificates of deposit of depositories that have not been designated by the local board of finance of either but have been designated by the state board of finance as a depository for state deposits under IC 5-13-9.5. An ordinance or a resolution adopted under this subsection must provide that the authority granted in the ordinance or resolution expires on a date that is not later than two (2) years after the date the ordinance or resolution is adopted.

(b) With respect to any money to be invested in a deposit account under subsection (a), the investing officer shall solicit quotes for the certificates of deposit from at least three (3) depositories. If only one (1) depository has been designated for the political subdivision by its local board of finance, a quote must be solicited from that depository. If two (2) or more depositories have been designated for the political subdivision by its local board of finance, at least two (2) quotes must be solicited from the depositories thus designated. The quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by the investing officer as a public record of the political subdivision under IC 5-14-3.

(c) Investments in any certificates of deposit to which this section applies shall be placed in the depository quoting the highest rate of interest under subsection (b), as determined after deducting any fee charged by the depository. If two (2) or more depositories submit the same highest quote, the investment shall be placed as follows:

(1) If only one (1) of the highest quoters is a depository designated for the political subdivision by its local board of finance, the investment shall be placed in that depository.

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(2) If more than one (1) of the highest quoters are depositories designated for the political subdivision by its local board of finance, the investment shall be placed by the investing officer in any or all of these depositories in the amount or amounts determined by the investing officer, in the investing officer's discretion.

(3) If none of the highest quoters is a depository designated for the political subdivision by its local board of finance, the investment shall be placed by the investing officer in one (1) of the depositories submitting the highest quote.

SECTION 9. IC 5-13-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) All interest derived from an investment by a political subdivision or by any other local public officer under the authority granted by section 3 of this chapter shall be deposited, except as otherwise provided by law, in the general fund of the investment authority or in any other fund its governing body designates specifically or by rule, subject to the modifications and limitations in this section.

(b) Interest from the following investments shall be receipted as follows:

(1) Interest from investments of funds of a political subdivision that are traceable to United States government funds must be receipted to the fund of which they are a part, if required by federal law or regulation.

(2) Interest from investments of funds controlled by court orders must be receipted to that fund unless otherwise designated by the court order.

(c) Each county treasurer, if authorized by the board of county commissioners **(in a county not subject to IC 36-2-2.5) or the county council (in a county subject to IC 36-2-2.5 after December 31, 2014)**, may invest tax collections under this chapter pending distribution of the collections to political subdivisions. These investments may not:

(1) exceed the amount available after giving consideration to taxes which may need to be advanced to any political subdivision; or

(2) be made in deposit accounts or repurchase agreements, the maturity dates of which are later than the time when the tax collections are required by law to be distributed to political subdivisions.

(d) The interest received on the investments made under subsection (c) shall be receipted to the county general fund or any other fund from

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1 which expenses incurred in the maintenance of county highways may
 2 be paid. The county fiscal body (as defined in IC 36-1-2-6) shall
 3 determine the allocation of this interest among the general fund and the
 4 various highway funds into which the interest may be deposited.

5 (e) Any political subdivision may apply the interest derived from the
 6 investment of the proceeds from bonded indebtedness or local tax
 7 levies to the appropriate redemption bond interest or sinking fund for
 8 the bonded indebtedness.

9 (f) If meter deposits of a municipally owned utility are invested, the
 10 interest earned on the investment may be applied to and used in the
 11 operation or depreciation fund of the municipally owned utility as
 12 determined by its governing body.

13 (g) Interest from the investment of the public funds of a political
 14 subdivision may not be paid personally or for the benefit of any public
 15 officer.

16 SECTION 10. IC 5-15-6-1 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A
 18 commission is hereby created in each county of the state which shall be
 19 known as the county commission of public records of
 20 _____ county.

21 (b) The county commission shall consist, ex officio, of the judge of
 22 the circuit court, the president of the board of county commissioners
 23 **(in a county not subject to IC 36-2-2.5) or the county commissioner**
 24 **(in a county subject to IC 36-2-2.5 after December 31, 2014)**, the
 25 county auditor, the clerk of the circuit court, the county recorder, the
 26 superintendent of schools of the school district in which the county seat
 27 is located, and the city controller of the county seat city, and if there is
 28 no city controller, then the clerk-treasurer of the county seat city or
 29 town shall be a member of such commission.

30 (c) The commission shall elect one (1) of its members to be
 31 chairman, and the clerk of the circuit court shall be secretary. The
 32 members of the county commission shall serve without compensation
 33 and shall receive no disbursement for any expense.

34 (d) The county commission shall meet at least one (1) time in each
 35 calendar year.

36 SECTION 11. IC 6-1.1-4-31, AS AMENDED BY P.L.146-2008,
 37 SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 UPON PASSAGE]: Sec. 31. (a) The department of local government
 39 finance shall periodically check the conduct of:

- 40 (1) a general reassessment of property;
- 41 (2) work required to be performed by local officials under 50
- 42 IAC 21; and

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(3) other property assessment activities in the county, as determined by the department.

The department of local government finance may inform township assessors (if any), county assessors, and the presidents of county councils in writing if its check reveals that the general reassessment or other property assessment activities are not being properly conducted, work required to be performed by local officials under 50 IAC 21 is not being properly conducted, or property assessments are not being properly made.

(b) The failure of the department of local government finance to inform local officials under subsection (a) shall not be construed as an indication by the department that:

(1) the general reassessment or other property assessment activities are being properly conducted;

(2) work required to be performed by local officials under 50 IAC 21 is being properly conducted; or

(3) property assessments are being properly made.

(c) If the department of local government finance:

(1) determines under subsection (a) that a general reassessment or other assessment activities for a general reassessment year or any other year are not being properly conducted; and

(2) informs:

(A) the township assessor (if any) of each affected township;

(B) the county assessor; and

(C) the president of the county council;

in writing under subsection (a);

the department may order a state conducted assessment or reassessment under section 31.5 of this chapter to begin not less than sixty (60) days after the date of the notice under subdivision (2). If the department determines during the period between the date of the notice under subdivision (2) and the proposed date for beginning the state conducted assessment or reassessment that the general reassessment or other assessment activities for the general reassessment are being properly conducted, the department may rescind the order.

(d) If the department of local government finance:

(1) determines under subsection (a) that work required to be performed by local officials under 50 IAC 21 is not being properly conducted; and

(2) informs:

(A) the township assessor of each affected township (if any);

(B) the county assessor; and

(C) the president of the county council;

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1 in writing under subsection (a);
 2 the department may conduct the work or contract to have the work
 3 conducted to begin not less than sixty (60) days after the date of the
 4 notice under subdivision (2). If the department determines during the
 5 period between the date of the notice under subdivision (2) and the
 6 proposed date for beginning the work or having the work conducted
 7 that work required to be performed by local officials under 50 IAC 21
 8 is being properly conducted, the department may rescind the order.

9 (e) If the department of local government finance contracts to have
 10 work conducted under subsection (d), the department shall forward the
 11 bill for the services to the county, and the county shall pay the bill
 12 under the same procedures that apply to county payments of bills for
 13 assessment or reassessment services under section 31.5 of this chapter.

14 (f) A county council president who is informed by the department
 15 of local government finance under subsection (a) shall provide the
 16 information to the board of county commissioners **(in a county not**
 17 **subject to IC 36-2-2.5) or the county commissioner (in a county**
 18 **subject to IC 36-2-2.5 after December 31, 2014).** A board of county
 19 commissioners that receives information under this subsection **or (in**
 20 **a county subject to IC 36-2-2.5 after December 31, 2014) a county**
 21 **council that is informed by the department of local government**
 22 **finance under subsection (a)** may adopt an ordinance to do either or
 23 both of the following:

24 (1) Determine that:

- 25 (A) the information indicates that the county assessor has
 26 failed to perform adequately the duties of county assessor; and
 27 (B) by that failure the county assessor forfeits the office of
 28 county assessor and is subject to removal from office by an
 29 information filed under IC 34-17-2-1(b).

30 (2) Determine that:

- 31 (A) the information indicates that one (1) or more township
 32 assessors in the county have failed to perform adequately the
 33 duties of township assessor; and
 34 (B) by that failure the township assessor or township assessors
 35 forfeit the office of township assessor and are subject to
 36 removal from office by an information filed under
 37 IC 34-17-2-1(b).

38 (g) A city-county council that is informed by the department of local
 39 government finance under subsection (a) may adopt an ordinance
 40 making the determination or determinations referred to in subsection
 41 (f).

42 SECTION 12. IC 10-17-9-3 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The board of county commissioners **(in a county not subject to IC 36-2-2.5) or the county council (in a county subject to IC 36-2-2.5 after December 31, 2014)** in each county may appropriate money out of the general fund of the county to erect cottages or any other needed building on the grounds of the home.

SECTION 13. IC 12-20-20-2, AS AMENDED BY P.L.73-2005, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) If money is not available for the payment of township assistance claims under section 1 of this chapter, the township board shall appeal to borrow money under IC 12-20-24.

(b) This subsection does not apply to a county having a consolidated city. If the township board does not appeal to borrow money under IC 12-20-24 or if an appeal fails, the board of commissioners **(in a county not subject to IC 36-2-2.5) or the county commissioner (in a county subject to IC 36-2-2.5 after December 31, 2014)** may borrow money or otherwise provide the money.

(c) If the county commissioners **(in a county not subject to IC 36-2-2.5) or the county commissioner (in a county subject to IC 36-2-2.5 after December 31, 2014)** determine to borrow the money or otherwise provide the money **under subsection (b)**, the county fiscal body shall promptly pass necessary ordinances and make the necessary appropriations to enable this to be done, after determining whether to borrow money by any of the following:

- (1) A temporary loan against taxes levied and in the process of collection.
- (2) The sale of county township assistance bonds or other county obligations.
- (3) Any other lawful method of obtaining money for the payment of township assistance claims.

~~(c)~~ (d) This subsection applies only to a county having a consolidated city. If a township board does not appeal to borrow money under IC 12-20-24 or if an appeal fails, the board of commissioners shall borrow money or otherwise provide the money. The county fiscal body shall promptly pass necessary ordinances and make the necessary appropriations to enable this to be done, after determining whether to borrow money by any of the following methods:

- (1) A temporary loan against taxes levied and in the process of collection.
- (2) The sale of county township assistance bonds or other county obligations.
- (3) Any other lawful method of obtaining money for the payment

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of township assistance claims.

SECTION 14. IC 12-30-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The board of commissioners **(in a county not subject to IC 36-2-2.5) or the county commissioner (in a county subject to IC 36-2-2.5 after December 31, 2014)** of a county may do the following:

- (1) Purchase a tract of real property in the name of the county.
- (2) Build, establish, and organize a county home for the indigent on the tract of real property.
- (3) Employ a humane and responsible individual who resides in the county, upon the terms and under the restrictions the board of commissioners considers most advantageous to the interests of the county, to take charge of the county home as superintendent.

SECTION 15. IC 12-30-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. To raise the amount necessary for the purchase of real property and the erection and furnishing of the buildings for county homes under this chapter, the board of commissioners **(in a county not subject to IC 36-2-2.5) or the county council (in a county subject to IC 36-2-2.5 after December 31, 2014)** of a county may assess a tax on property liable to be assessed for raising a county revenue. The assessment may not increase the rates at which the property is assessed by the laws existing when the tax is assessed by more than twenty-five percent (25%).

SECTION 16. IC 12-30-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A relative of a member of the board of commissioners **(in a county not subject to IC 36-2-2.5) or a relative of the county commissioner (in a county subject to IC 36-2-2.5 after December 31, 2014)** may not be appointed superintendent or employed in any capacity. A relative of the superintendent, except the spouse as assistant, may not be employed in any capacity with the home except by the consent of the board of commissioners **(in a county not subject to IC 36-2-2.5) or a relative of the county commissioner (in a county subject to IC 36-2-2.5 after December 31, 2014).**

SECTION 17. IC 13-11-2-74 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 74. "Executive" means the:

- (1) board of commissioners **(in a county not subject to IC 36-2-2.5) or the county commissioner (in a county subject to IC 36-2-2.5 after December 31, 2014)** of a county not having a consolidated city;
- (2) mayor of the consolidated city, for a county having a

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consolidated city;

(3) mayor of a city; or

(4) president of the town council of a town.

SECTION 18. IC 22-9-1-12.1, AS AMENDED BY P.L.2-2007, SECTION 307, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12.1. (a) As used in this section, the term "state agency" means:

(1) every office, officer, board, commission, department, division, bureau, committee, fund, agency; and

(2) without limitation by reason of any enumeration in this section:

(A) every other instrumentality of the state, every hospital, every penal institution, and every other institutional enterprise and activity of the state, wherever located;

(B) the state educational institutions; and

(C) the judicial department of the state.

"State agency" does not mean counties, county offices of family and children, cities, towns, townships, school corporations (as defined in IC 20-18-2-16), or other municipal corporations, political subdivisions, or units of local government.

(b) Any city, town, or county is hereby authorized to adopt an ordinance or ordinances, which may include establishment or designation of an appropriate local commission, office, or agency to effectuate within its territorial jurisdiction the public policy of the state as declared in section 2 of this chapter without conflict with any of the provisions of this chapter. Any city or town may adopt such an ordinance or ordinances jointly with any other city or town located in the same county or jointly with that county. A city ordinance that establishes a local commission may provide that the members of the commission are to be appointed solely by the city executive or solely by the city legislative body or may provide for a combination of appointments by the city executive and the city legislative body. The board of commissioners **(in a county not subject to IC 36-2-2.5) or the county council (in a county subject to IC 36-2-2.5 after December 31, 2014)** of each county is also authorized to adopt ordinances in accordance with this section. An agency established or designated under this section has no jurisdiction over the state or any of its agencies.

(c) An ordinance adopted under this section may grant to the local agency the power to:

(1) investigate, conciliate, and hear complaints;

(2) subpoena and compel the attendance of witnesses or

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production of pertinent documents and records;
 (3) administer oaths;
 (4) examine witnesses;
 (5) appoint hearing examiners or panels;
 (6) make findings and recommendations;
 (7) issue cease and desist orders or orders requiring remedial action;
 (8) order payment of actual damages, except that damages to be paid as a result of discriminatory practices relating to employment shall be limited to lost wages, salaries, commissions, or fringe benefits;
 (9) institute actions for appropriate legal or equitable relief in a circuit or superior court;
 (10) employ an executive director and other staff personnel;
 (11) adopt rules and regulations;
 (12) initiate complaints, except that no person who initiates a complaint may participate as a member of the agency in the hearing or disposition of the complaint; and
 (13) conduct programs and activities to carry out the public policy of the state, as provided in section 2 of this chapter, within the territorial boundaries of a local agency.

(d) Any person who files a complaint with any local agency may not also file a complaint with the civil rights commission concerning any of the matters alleged in such complaint, and any person who files a complaint with the civil rights commission may not also file a complaint with any local agency concerning any of the matters alleged in such complaint. Any complaint filed with the commission may be transferred by the commission to any local agency having jurisdiction. The local agency shall proceed to act on the complaint as if it had been originally filed with the local agency as of the date that the complaint was filed with the commission. Any complaint filed with a local agency may be transferred by the local agency to the commission if the commission has jurisdiction. The commission shall proceed to act on the complaint as if it had been originally filed with the commission as of the date that the complaint was filed with the local agency. Nothing in this subsection shall affect such person's right to pursue any and all other rights and remedies available in any other state or federal forum.

(e) A decision of the local agency may be appealed under the terms of IC 4-21.5 the same as if it was a decision of a state agency.

SECTION 19. IC 32-26-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) This subsection applies in a township for which ~~the board of county~~

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1 ~~commissioners an ordinance~~ has ~~been~~ adopted ~~an ordinance~~ that
 2 allows domestic animals to run at large in unenclosed public areas. If
 3 a domestic animal breaks into an enclosure or enters upon the property
 4 of another person that is enclosed by a lawful fence, the person injured
 5 by the actions of the domestic animal may recover the amount of
 6 damage done.

7 (b) This subsection applies in a township for which ~~the board of~~
 8 ~~county commissioners an ordinance~~ has not ~~been~~ adopted ~~an~~
 9 ~~ordinance~~ that allows domestic animals to run at large in unenclosed
 10 public areas. If a domestic animal breaks into an enclosure or enters
 11 upon the property of another person, it is not necessary for the person
 12 injured by the actions of the domestic animal to allege or prove the
 13 existence of a lawful fence to recover for the damage done.

14 SECTION 20. IC 34-17-2-1, AS AMENDED BY P.L.146-2008,
 15 SECTION 678, IS AMENDED TO READ AS FOLLOWS
 16 [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) An information described
 17 in IC 34-17-1-1 may be filed:

18 (1) by the prosecuting attorney in the circuit court of the proper
 19 county, upon the prosecuting attorney's own relation, whenever
 20 the prosecuting attorney:

21 (A) determines it to be the prosecuting attorney's duty to do so;
 22 or

23 (B) is directed by the court or other competent authority; or

24 (2) by any other person on the person's own relation, whenever
 25 the person claims an interest in the office, franchise, or
 26 corporation that is the subject of the information.

27 (b) The prosecuting attorney shall file an information in the circuit
 28 court of the county against the county assessor or a township assessor
 29 under IC 34-17-1-1(2) if:

30 (1) ~~the board of county commissioners adopts~~ an ordinance ~~has~~
 31 ~~been adopted~~ under IC 6-1.1-4-31(f); or

32 (2) the city-county council adopts an ordinance under
 33 IC 6-1.1-4-31(g).

34 SECTION 21. IC 36-1-2-5 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) "Executive"
 36 means **the following**:

37 (1) **Except as provided in subsection (b), the** board of
 38 commissioners, for a county not having a consolidated city.

39 (2) **The** mayor of the consolidated city, for a county having a
 40 consolidated city.

41 (3) **The** mayor, for a city.

42 (4) **The** president of the town council, for a town.

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(5) A trustee, for a township.

(6) The superintendent, for a school corporation. or

(7) The chief executive officer, for any other political subdivision.

(b) "Executive", in the case of a county subject to IC 36-2-2.5, means after December 31, 2014, the county executive elected under IC 3-10-2-13.

SECTION 22. IC 36-1-2-9, AS AMENDED BY P.L.186-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. "Legislative body" means the following:

(1) The board of county commissioners, for a county not subject to IC 36-2-3.5 or IC 36-3-1.

(2) The county council, for a county subject to IC 36-2-3.5 or (after December 31, 2014) IC 36-2-3.7.

(3) The city-county council, for a consolidated city or county having a consolidated city.

(4) The common council, for a city other than a consolidated city.

(5) The town council, for a town.

(6) The township board, for a township.

(7) The governing body of any other political subdivision that has a governing body. or

(8) The chief executive officer of any other political subdivision that does not have a governing body.

SECTION 23. IC 36-1-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) If there is a constitutional or statutory provision requiring a specific manner for exercising a power, a unit wanting to exercise the power must do so in that manner.

(b) If there is no constitutional or statutory provision requiring a specific manner for exercising a power, a unit wanting to exercise the power must either:

(1) if the unit is a county or municipality, adopt an ordinance prescribing a specific manner for exercising the power;

(2) if the unit is a township, adopt a resolution prescribing a specific manner for exercising the power; or

(3) comply with a statutory provision permitting a specific manner for exercising the power.

(c) An ordinance under subsection (b)(1) must be adopted as follows:

(1) In a municipality, by the legislative body of the municipality.

(2) In a county subject to IC 36-2-2.5 (for ordinances adopted after December 31, 2014), IC 36-2-3.5, or IC 36-3-1, by the legislative body of the county.

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(3) In any other county, by the executive of the county.

(d) A resolution under subsection (b)(2) must be adopted by the legislative body of the township.

SECTION 24. IC 36-2-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) If the resident voters in a specified territory in two (2) or more contiguous counties desire to change the boundaries of their respective counties, they may file a petition with the executives of their respective counties requesting that the territory be transferred. The petition must:

(1) be signed by at least the number of voters resident in the territory requested to be transferred required to place a candidate on the ballot under IC 3-8-6-3;

(2) contain a clear, distinct description of the requested boundary change; and

(3) not propose to decrease the area of any county below four hundred (400) square miles in compliance with Article 15, Section 7 of the Constitution of the State of Indiana.

(b) Whenever a petition under subsection (a) is filed with a county executive, the executive shall determine, at its first meeting after the petition is filed:

(1) whether the signatures on the petition are genuine; and

(2) whether the petition complies with subsection (a).

(c) If the determinations under subsection (b) are affirmative, the executive shall certify the question to the county election board of each affected county. The county election boards shall jointly order a special election to be held, scheduling the election so that the election is held on the same date in each county interested in the change, but not later than thirty (30) days and not on the same date as a general election. The election shall be conducted under IC 3-10-8-6. All voters of each interested county are entitled to vote on the question. The question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall the boundaries of _____ County and _____ County change?".

(d) After an election under subsection (c), the clerk of each county shall make a certified copy of the election returns and, not later than five (5) days after the election, file the copy with the auditor of the county. The auditor shall, not later than five (5) days after the filing of the returns in the auditor's office, make a true and complete copy of the returns, certified under the auditor's hand and seal, and deposit the copy with the auditor of every other county interested in the change.

(e) After copies have been filed under subsection (d), the auditor of each county shall call a meeting of the executive of the county, which

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shall examine the returns. If a majority of the voters of each interested county voted in favor of change, the executive shall:

- (1) enter an order declaring their boundaries to be changed as described in the petition; and
- (2) if the county has received territory from the transfer, adopt revised descriptions of:

(A) county commissioner districts under IC 36-2-2-4; and

(B) county council districts under IC 36-2-3-4;

so that the transferred territory is assigned to at least one (1) county commissioner district and at least one (1) county council district. **If IC 36-2-3.7 applies to the county, county council districts shall be established as provided in IC 36-2-3-4.6.**

(f) The executive of each county shall file a copy of the order described in subsection (e)(1) with:

- (1) the office of the secretary of state; and
- (2) the circuit court clerk of the county.

Except as provided in subsection (g), the transfer of territory becomes effective when the last county order is filed under this subsection.

(g) An order declaring county boundaries to be changed may not take effect during the year preceding a year in which a federal decennial census is conducted. An order that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

(h) An election under this section may be held only once every three (3) years.

SECTION 25. IC 36-2-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. This chapter applies to all counties ~~not~~ **except the following:**

(1) **A county** having a consolidated city.

(2) **After December 31, 2014, a county subject to IC 36-2-2.5.**

SECTION 26. IC 36-2-2.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 2.5. Reorganization of County Executive and Legislative Structure and Powers

Sec. 1. (a) This chapter does not apply to a county having a consolidated city or to a county subject to IC 36-2-3.5.

(b) This chapter applies only to a county in which a second class city with a population of at least two hundred thousand (200,000) is located.

(c) Except as specifically provided, this chapter applies after

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December 31, 2014.

(d) The general assembly finds that:

- (1) any county in which a second class city with a population of at least two hundred thousand (200,000) is located is unique because of its size and population density; and
- (2) because of these unique qualities, any such county would benefit from a reorganization of county government under this chapter.

Sec. 2. As used in this chapter, "county commissioner" means the single county commissioner elected under IC 3-10-2-13 in a county described in section 1(b) of this chapter in 2014 and every four (4) years thereafter.

Sec. 3. (a) In a county subject to this chapter:

(1) the voters of the county:

(A) shall elect one (1) county commissioner in 2014 and every four (4) years thereafter; and

(B) shall not elect a board of county commissioners; under IC 3-10-2-13;

(2) the board of county commissioners for the county is abolished January 1, 2015;

(3) notwithstanding IC 36-2-2-3, the term of each county commissioner elected in 2012 is two (2) years rather than four (4) years; and

(4) notwithstanding IC 36-2-2-3, the term of each county commissioner serving on December 31, 2014, expires at the end of that day.

(b) The term of office of the initial county commissioner:

(1) is four (4) years; and

(2) begins January 1, 2015.

(c) The term of office of a county commissioner is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

(d) To be eligible for election as the county commissioner, an individual must meet the qualifications prescribed by IC 3-8-1-21. If an individual does not remain a resident of the county after taking office as the county commissioner, the individual forfeits the office. The county legislative body shall declare the office vacant whenever the county commissioner forfeits office under this subsection.

Sec. 4. (a) All powers and duties of the county that are executive or administrative in nature shall be exercised or performed by the county commissioner, except to the extent that these powers and

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1 duties are expressly assigned by law to another elected or
 2 appointed officer. The county commissioner shall transact the
 3 business of the county in the name of "The County Commissioner
 4 of the County of _____".

5 (b) After December 31, 2014, any reference:

6 (1) in the Indiana Code;

7 (2) in the Indiana Administrative Code;

8 (3) in an ordinance or resolution; or

9 (4) in any lease, deed, contract, or other official document;

10 to the board of county commissioners pertaining to the executive
 11 powers of a county shall be considered a reference to the county
 12 commissioner of the county. After December 31, 2014, any
 13 reference in the Indiana Code related to the executive powers and
 14 duties of the board of county commissioners shall, for purposes of
 15 a county subject to this chapter, be considered a reference to the
 16 powers and duties of the county commissioner of the county.

17 (c) After December 31, 2014, the county council has the
 18 legislative powers and duties of the county as provided in
 19 IC 36-2-3.7.

20 (d) On January 1 following the year in which the initial single
 21 county commissioner is elected as provided in this chapter, all of
 22 the property, assets, funds, equipment, records, rights, contracts,
 23 obligations, and liabilities of the board of county commissioners of
 24 a county are transferred to or assumed by the county
 25 commissioner.

26 (e) The abolishment of the board of county commissioners of a
 27 county on January 1 following the year in which the initial single
 28 county commissioner is elected as provided in this chapter does not
 29 invalidate:

30 (1) any ordinances, resolutions, fees, schedules, or other
 31 actions adopted or taken by the board of county
 32 commissioners before the board is abolished; or

33 (2) any appointments made by the board of county
 34 commissioners before the board is abolished.

35 Sec. 5. The county commissioner shall do the following:

36 (1) Report on the condition of the county before March 1 of
 37 each year to the county legislative body and to the residents of
 38 the county.

39 (2) Recommend before March 1 of each year to the county
 40 legislative body any action or program the county
 41 commissioner considers necessary for the improvement of the
 42 county and the welfare of county residents.

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(3) Submit to the county legislative body an annual budget in accordance with IC 36-2-5.

(4) Establish the procedures to be followed by all county departments, offices, and agencies under the county commissioner's jurisdiction to the extent these procedures are not expressly assigned by law to another elected or appointed officer.

(5) Administer all statutes, ordinances, and regulations applicable to the county, to the extent the administration of these matters is not expressly assigned by law to another elected or appointed officer.

(6) Supervise the care and custody of all county property.

(7) Supervise the collection of revenues and control all disbursements and expenditures, and prepare a complete account of all expenditures, to the extent these matters are not expressly assigned by law to another elected or appointed officer.

(8) Review, analyze, and forecast trends for county services and finances and programs of all county governmental entities, and report and recommend on these to the county legislative body by March 15 of each year.

(9) Negotiate contracts for the county.

(10) Make recommendations concerning the nature and location of county improvements, and provide for the execution of those improvements.

(11) Supervise county administrative offices, except for the offices of elected officers.

(12) Do the following in January of each year:

(A) Make a settlement with the county treasurer for the preceding calendar year and include a copy of the settlement sheet in the order book of the county commissioner.

(B) Make an accurate statement of the county's receipts and expenditures during the preceding calendar year. The statement must include the name of and total compensation paid to each county officer, deputy, and employee. The county commissioner shall post this statement at the courthouse door and two (2) other places in the county and shall publish it in the manner prescribed by IC 5-3-1.

(13) Perform other duties and functions that are assigned to the county commissioner by statute or ordinance.

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1 **Sec. 6. The county commissioner may do any of the following:**

2 (1) Order any department, office, or agency under the county
3 commissioner's jurisdiction to undertake any task for another
4 department, office, or agency under the county
5 commissioner's jurisdiction on a temporary basis, if necessary
6 for the proper and efficient administration of county
7 government.

8 (2) Establish and administer centralized budgeting,
9 centralized personnel selection, and centralized purchasing.

10 (3) Audit the accounts of officers who deal with money
11 belonging to or appropriated for the benefit of the county.

12 (4) Approve accounts chargeable against the county and
13 direct the raising of money necessary for county expenses.

14 (5) Make orders concerning county property, including orders
15 for:

16 (A) the sale of the county's public buildings and the
17 acquisition of land in the county seat on which to build new
18 public buildings; and

19 (B) the acquisition of land for a public square and the
20 maintenance of that square.

21 However, a conveyance or purchase by a county of land
22 having a value of at least one thousand dollars (\$1,000) must
23 be authorized by an ordinance of the county legislative body
24 fixing the terms and conditions of the transaction.

25 **Sec. 7. (a) The county commissioner shall establish and maintain**
26 **a county courthouse, county jail, and public offices for the county**
27 **clerk, the county auditor, the county recorder, the county**
28 **treasurer, the county sheriff, the county surveyor, and the county**
29 **superintendent of schools (if any).**

30 (b) Offices for the surveyor and superintendent of schools (if
31 applicable) must be in the courthouse or at the county seat.

32 (c) Offices for the sheriff may be located:

33 (1) in the courthouse;

34 (2) inside the corporate limits of the county seat; or

35 (3) outside the corporate limits of the county seat but within
36 the limits of the county.

37 **Sec. 8. (a) The county commissioner may grant licenses, permits,**
38 **or franchises for the use of county property if the licenses, permits,**
39 **or franchises:**

40 (1) are not exclusive;

41 (2) are of a definite duration; and

42 (3) are assignable only with the consent of the county

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commissioner.

(b) If a public utility or municipally owned or operated utility that carries on business outside the corporate boundaries of municipalities in the county is engaged in an activity substantially similar to that for which a license, permit, or franchise for the use of county property is sought, the county commissioner may grant the license, permit, or franchise only with the consent of the utility regulatory commission. The commission may give its consent only if it determines, after a public hearing of all interested parties, that public necessity and convenience require the substantially similar activity.

(c) The provisions of this section that concern securing the consent of the utility regulatory commission do not apply to municipally owned or operated utilities.

Sec. 9. The county commissioner shall approve or veto ordinances passed by the county legislative body in the manner prescribed by IC 36-2-4-8.

Sec. 10. Notwithstanding any other law, if a statute requires a county commissioner to take an executive action by ordinance or resolution, a county commissioner shall instead take the action by issuing an executive order.

Sec. 11. (a) If the county commissioner is disqualified from acting in a quasi-judicial proceeding, the county commissioner shall cease to act in that proceeding. Not later than ten (10) days after the finding that the county commissioner is disqualified to act in a proceeding, the county auditor shall send a certified copy of the record of the proceeding to the judge of the circuit court for the county. If the judge affirms the disqualification of the county commissioner, the judge shall appoint a disinterested and competent person to serve as a special executive in the proceeding.

(b) A person who consents to serve as a special executive must have the same qualifications as an elected county commissioner. The person's appointment and oath shall be filed with the county auditor and entered on the records of the county commissioner. A person appointed as a special executive may conduct the proceeding until a final determination is reached.

Sec. 12. The county commissioner shall keep the county commissioner's office open on each business day.

Sec. 13. Appointments made by the county commissioner shall be certified by the county auditor, under the seal of the county commissioner.

Sec. 14. (a) The county commissioner may employ a person:

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1 (1) to perform a duty required of a county officer by statute;
 2 or
 3 (2) on a commission or percentage basis;
 4 only if the employment is expressly authorized by statute or is
 5 found by the county commissioner to be necessary to the public
 6 interest.

7 (b) If a person's employment under subsection (a) is not
 8 expressly authorized by statute, the contract for the person's
 9 employment must be filed with the circuit court for the county, and
 10 the person must file the person's claims for compensation with that
 11 court. Any taxpayer may contest a claim under this section.

12 (c) A county commissioner who recklessly violates this section
 13 commits a Class C misdemeanor and forfeits the person's office.

14 Sec. 15. (a) The county commissioner may appoint a county
 15 administrator to be the administrative head of the county under
 16 the supervision of the county commissioner and to hold office at the
 17 pleasure of the county commissioner. The county commissioner
 18 may assign any office, position, or duties under its control to the
 19 administrator and may by resolution withdraw any of the powers
 20 and duties assigned.

21 (b) Under the supervision of the county commissioner and with
 22 the county commissioner's express authorization by resolution, the
 23 administrator may:

- 24 (1) assist in the administration and enforcement of policies
- 25 and resolutions of the county commissioner;
- 26 (2) supervise activities of county government subject to the
- 27 control of the county commissioner;
- 28 (3) attend meetings of the county commissioner;
- 29 (4) recommend measures for adoption to the county
- 30 commissioner;
- 31 (5) prepare and submit reports that the administrator
- 32 considers advisable or that the county commissioner requires;
- 33 (6) keep the county commissioner fully advised on the
- 34 financial condition of the county;
- 35 (7) prepare and submit a budget for each fiscal year; and
- 36 (8) perform other duties that the county commissioner
- 37 requests by resolution.

38 (c) If the administrator is absent from office due to illness,
 39 death, vacation, resignation, or removal, a qualified person
 40 appointed by the county commissioner shall act as administrator
 41 until the administrator returns to the administrator's duties or the
 42 county commissioner appoints a new administrator.

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1 **Sec. 16. The county commissioner shall appear before the**
 2 **legislative body of the county at least once each month and at other**
 3 **times as needed to conduct all necessary county business.**

4 **Sec. 17. (a) A party to a proceeding before the county**
 5 **commissioner who is aggrieved by a decision of the county**
 6 **commissioner may appeal that decision to the circuit court for the**
 7 **county.**

8 **(b) A person who is not a party to a proceeding before the**
 9 **county commissioner may appeal a decision of the county**
 10 **commissioner only if the person files with the county auditor an**
 11 **affidavit:**

12 **(1) specifically setting forth the person's interest in the matter**
 13 **decided; and**

14 **(2) alleging that the person is aggrieved by the decision of the**
 15 **county commissioner.**

16 **(c) An appeal under this section must be taken not later than**
 17 **thirty (30) days after the county commissioner makes the decision**
 18 **by which the appellant is aggrieved.**

19 **(d) An appellant under this section must file with the county**
 20 **auditor a bond conditioned on due prosecution of the appeal. The**
 21 **bond is subject to approval by the county auditor and must be in**
 22 **an amount sufficient to provide security for court costs.**

23 **(e) Not later than twenty (20) days after the county auditor**
 24 **receives the appeal bond, the county auditor shall prepare a**
 25 **complete transcript of the proceedings of the county commissioner**
 26 **related to the decision appealed from and shall deliver the**
 27 **transcript, all documents filed during the proceedings, and the**
 28 **appeal bond to the clerk of the circuit court.**

29 **Sec. 18. (a) An appeal under section 17 of this chapter shall be**
 30 **docketed among the other causes pending in the circuit court and**
 31 **shall be tried as an original cause.**

32 **(b) A court may decide an appeal under section 17 of this**
 33 **chapter by:**

34 **(1) affirming the decision of the county commissioner; or**

35 **(2) remanding the cause to the county commissioner with**
 36 **directions as to how to proceed;**

37 **and may require the county commissioner to comply with this**
 38 **decision.**

39 **Sec. 19. (a) The county auditor or the county commissioner may**
 40 **administer any oaths required by this chapter.**

41 **(b) The county commissioner may:**

42 **(1) punish contempt by a fine of not more than three dollars**

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(S3) or by imprisonment for not more than twenty-four (24) hours; and

(2) enforce the county commissioner's orders by attachment or other compulsory process.

(c) Fines assessed by the county commissioner shall be executed, collected, and paid over in the same manner as other fines.

(d) The county sheriff or a county police officer shall attend the hearings of the county commissioner, if requested by the county commissioner, and shall execute the county commissioner's orders.

Sec. 20. (a) Appointments made by the county commissioner shall be certified by the county auditor, under the seal of the county commissioner.

(b) If a copy of the county commissioner's proceedings has been signed and sealed by the county auditor and introduced into evidence in court, that copy is presumed to be an accurate record of the county commissioner's proceedings.

Sec. 21. If publication of a notice, report, or statement of any kind is required and a county is liable for the cost of that publication, the county commissioner may not make or pay for publication in more than one (1) newspaper unless publication in two (2) newspapers is required. A person who violates this section commits a Class C infraction.

Sec. 22. (a) The county commissioner may employ and fix the compensation of an attorney to represent and advise the county commissioner.

(b) For purposes of Article 2, Section 9 of the Constitution of the State of Indiana, employment by a county commissioner as an attorney does not constitute a lucrative office.

SECTION 27. IC 36-2-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The seven (7) member county council elected under this chapter is the county fiscal body. The fiscal body shall act in the name of "The _____ County Council".

(b) Notwithstanding subsection (a), in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the county council has nine (9) members.

(c) In a county subject to IC 36-2-2.5, the county council is after December 31, 2014, both the county fiscal body and the county legislative body.

SECTION 28. IC 36-2-3-4, AS AMENDED BY P.L.230-2005, SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) This section does not apply to a county

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1 **after December 31, 2014, if IC 36-2-3.7 applies to the county.**

2 ~~(a)~~ **(b)** This subsection does not apply to a county having a
3 population of:

- 4 (1) more than four hundred thousand (400,000) but less than
5 seven hundred thousand (700,000); or
6 (2) more than two hundred thousand (200,000) but less than three
7 hundred thousand (300,000).

8 The county executive shall, by ordinance, divide the county into four
9 (4) contiguous, single-member districts that comply with subsection
10 ~~(d)~~ **(e)**. If necessary, the county auditor shall call a special meeting of
11 the executive to establish or revise districts. One (1) member of the
12 fiscal body shall be elected by the voters of each of the four (4)
13 districts. Three (3) at-large members of the fiscal body shall be elected
14 by the voters of the whole county.

15 ~~(b)~~ **(c)** This subsection applies to a county having a population of
16 more than four hundred thousand (400,000) but less than seven
17 hundred thousand (700,000). The county redistricting commission
18 established under IC 36-2-2-4 shall divide the county into seven (7)
19 single-member districts that comply with subsection ~~(d)~~ **(e)**. One (1)
20 member of the fiscal body shall be elected by the voters of each of
21 these seven (7) single-member districts.

22 ~~(c)~~ **(d)** This subsection applies to a county having a population of
23 more than two hundred thousand (200,000) but less than three hundred
24 thousand (300,000). The fiscal body shall divide the county into nine
25 (9) single-member districts that comply with subsection ~~(d)~~ **(e)**. Three
26 (3) of these districts must be contained within each of the three (3)
27 districts established under IC 36-2-2-4(c). One (1) member of the fiscal
28 body shall be elected by the voters of each of these nine (9)
29 single-member districts.

30 ~~(d)~~ **(e)** Single-member districts established under subsection ~~(a)~~ (b),
31 **(c)**, or ~~(c)~~ **(d)** must:

- 32 (1) be compact, subject only to natural boundary lines (such as
33 railroads, major highways, rivers, creeks, parks, and major
34 industrial complexes);
35 (2) not cross precinct boundary lines;
36 (3) contain, as nearly as possible, equal population; and
37 (4) include whole townships, except when a division is clearly
38 necessary to accomplish redistricting under this section.

39 ~~(c)~~ **(f)** A division under subsection ~~(a)~~ (b), **(c)**, or ~~(c)~~ **(d)** shall be
40 made:

- 41 (1) during the first year after a year in which a federal decennial
42 census is conducted; and

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(2) when the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

~~(f)~~ (g) A division under subsection ~~(a)~~, (b), (c), or ~~(c)~~ (d) may be made in any odd-numbered year not described in subsection ~~(c)~~: (f).

SECTION 29. IC 36-2-3-4.6 IS ADDED TO THE INDIANA CODE AS NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 4.6. (a) If IC 36-2-3.7 applies to the county:**

(1) this section applies to the county after December 31, 2014; and

(2) section 4 of this chapter does not apply to the county after December 31, 2014.

(b) The county council shall divide the county into four (4) single-member districts that comply with subsection (c). If necessary, the county auditor shall call a special meeting of the county council to establish or revise districts. One (1) member of the county council shall be elected by the voters of each of the four (4) districts. Three (3) at-large members of the county council shall be elected by all the voters of the county.

(c) Single-member districts established under this section must:

(1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);

(2) not cross precinct boundary lines;

(3) contain, as nearly as possible, equal population; and

(4) include whole townships, except when a division is clearly necessary to accomplish redistricting under this section.

(d) A division under this section shall be made:

(1) during the first year after a year in which a federal decennial census is conducted; and

(2) when the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(e) A division under this section may be made in any odd-numbered year not described in subsection (d).

SECTION 30. IC 36-2-3.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 3.7. County Council as the County Legislative Body

Sec. 1. This chapter applies after December 31, 2014, to each county to which IC 36-2-2.5 applies.

Sec. 2. As used in this chapter, "county commissioner" means the county commissioner of a county elected under IC 3-10-2-13 in a county subject to IC 36-2-2.5.

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1 **Sec. 3. The executive and legislative powers of a county are**
 2 **divided between separate branches of county government. A power**
 3 **belonging to one (1) branch of county government may not be**
 4 **exercised by the other branch of county government.**

5 **Sec. 4. (a) The county council elected under IC 36-2-3 is the**
 6 **county legislative body as well as the county fiscal body.**

7 **(b) The county commissioner is the executive of the county. The**
 8 **county commissioner has the executive and administrative powers**
 9 **and duties of the county as provided in IC 36-2-2.5.**

10 **Sec. 5. (a) All powers and duties of the county that are legislative**
 11 **in nature shall be exercised or performed by the county council**
 12 **functioning as the county legislative body.**

13 **(b) The county council has the same legislative powers and**
 14 **duties that the county board of commissioners in the county had**
 15 **before the county board of commissioners was abolished.**

16 **(c) For purposes of a county subject to this chapter, after**
 17 **December 31, 2014, any reference:**

18 **(1) in the Indiana Code;**

19 **(2) in the Indiana Administrative Code;**

20 **(3) in an ordinance or resolution; or**

21 **(4) in any deed, lease, contract, or other official document or**
 22 **instrument;**

23 **to the board of commissioners pertaining to the legislative powers**
 24 **of a county shall be considered a reference to the county council of**
 25 **the county.**

26 **(d) For purposes of a county subject to this chapter, after**
 27 **December 31, 2014, any reference:**

28 **(1) in the Indiana Code;**

29 **(2) in the Indiana Administrative Code;**

30 **(3) in an ordinance or resolution; or**

31 **(4) in any deed, lease, contract, or other official document or**
 32 **instrument;**

33 **related to the legislative powers and duties of the board of county**
 34 **commissioners shall be considered a reference to the powers and**
 35 **duties of the county council of the county.**

36 **Sec. 6. The county council may do any of the following:**

37 **(1) Establish committees that are necessary to carry out the**
 38 **county council's functions.**

39 **(2) Employ legal and administrative personnel necessary to**
 40 **carry out the county council's functions.**

41 **(3) Pass all ordinances, orders, resolutions, and motions for**
 42 **the government of the county, in the manner prescribed by**

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1 **IC 36-2-4.**

2 **(4) Receive gifts, bequests, and grants from public or private**
 3 **sources.**

4 **(5) Conduct investigations into the conduct of county business**
 5 **for the purpose of correcting deficiencies and ensuring**
 6 **adherence to law and county ordinances and policies.**

7 **(6) Establish, by ordinance, new county departments,**
 8 **divisions, or agencies whenever necessary to promote efficient**
 9 **county government.**

10 SECTION 31. IC 36-2-4-8, AS AMENDED BY P.L.78-2009,
 11 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2010]: Sec. 8. (a) An ordinance, order, or resolution is
 13 considered adopted when it is signed by the presiding officer. If
 14 required, an adopted ordinance, order, or resolution must be
 15 promulgated or published according to statute before it takes effect.

16 (b) An ordinance prescribing a penalty or forfeiture for a violation
 17 must, before it takes effect, be published once each week for two (2)
 18 consecutive weeks, according to IC 5-3-1. However, if such an
 19 ordinance is adopted by the legislative body of a county subject to
 20 IC 36-2-3.5 or **(after December 31, 2014) IC 36-2-3.7** and there is an
 21 urgent necessity requiring its immediate effectiveness, it need not be
 22 published if:

- 23 (1) the county executive proclaims the urgent necessity; and
 24 (2) copies of the ordinance are posted in three (3) public places in
 25 each of the districts of the county before it takes effect.

26 (c) The following apply in addition to the other requirements of this
 27 section:

- 28 (1) An ordinance or resolution passed by the legislative body of
 29 a county subject to IC 36-2-3.5 or **(after December 31, 2014)**
 30 **IC 36-2-3.7** is considered adopted only if it is:

- 31 (A) approved by signature of a majority of the county
 32 executive;
 33 (B) neither approved nor vetoed by a majority of the executive,
 34 within ten (10) days after passage by the legislative body; or
 35 (C) passed over the veto of the executive by a two-thirds (2/3)
 36 vote of the legislative body, within sixty (60) days after
 37 presentation of the ordinance or resolution to the executive.

- 38 (2) The legislative body of a county shall:

- 39 (A) subject to subdivision (3), give written notice to the
 40 department of environmental management not later than sixty
 41 (60) days before amendment or repeal of an environmental
 42 restrictive ordinance; and

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(B) give written notice to the department of environmental management not later than thirty (30) days after passage, amendment, or repeal of an environmental restrictive ordinance.

(3) Upon written request by the legislative body, the department of environmental management may waive the notice requirement of subdivision (2)(A).

(4) An environmental restrictive ordinance passed or amended after 2009 by the legislative body must state the notice requirements of subdivision (2).

(5) The failure of an environmental restrictive ordinance to comply with subdivision (4) does not void the ordinance.

(d) After an ordinance or resolution passed by the legislative body of a county subject to IC 36-2-3.5 **or (after December 31, 2014) IC 36-2-3.7** has been signed by the presiding officer, the county auditor shall present it to the county executive, and record the time of the presentation. Within ten (10) days after an ordinance or resolution is presented to it, the executive shall:

(1) approve the ordinance or resolution, by signature of a majority of the executive, and send the legislative body a message announcing its approval; or

(2) veto the ordinance or resolution, by returning it to the legislative body with a message announcing its veto and stating its reasons for the veto.

(e) This section does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(f) An ordinance increasing a building permit fee on new development must:

(1) be published:

(A) one (1) time in accordance with IC 5-3-1; and

(B) not later than thirty (30) days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1; and

(2) delay the implementation of the fee increase for ninety (90) days after the date the ordinance is published under subdivision (1).

SECTION 32. IC 36-5-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) This section does not apply to a town described by IC 36-5-1-11.5.

(b) A town subject to this chapter may be dissolved if the county election board of the county in which the greatest percentage of

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1 population of the town is located conducts a public hearing and finds
 2 that the town has not elected town officers or had a functioning town
 3 government during the preceding ten (10) years.

4 (c) The county election board shall certify the board's findings to the
 5 county executive, who may adopt an ordinance or (in a county subject
 6 to IC 36-2-3.5 **or, after December 31, 2014, IC 36-2-2.5**) issue an
 7 order to dissolve the town.

8 SECTION 33. IC 36-9-13-2 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. For purposes of this
 10 chapter, the following are considered the governing bodies of their
 11 respective eligible entities:

12 (1) Board of commissioners, for a county not subject to
 13 IC 36-2-3.5 or IC 36-3-1.

14 (2) County council, for a county subject to IC 36-2-3.5 **or (after**
 15 **December 31, 2014) IC 36-2-3.7.**

16 (3) City-county council, for a consolidated city or county having
 17 a consolidated city.

18 (4) Common council, for a city other than a consolidated city.

19 (5) Town council, for a town.

20 (6) Trustee and township board, for a civil or school township.

21 (7) Board of school trustees, board of school commissioners, or
 22 school board, for a school corporation.

23 (8) Board of trustees, for a health and hospital corporation.

24 SECTION 34. [EFFECTIVE JULY 1, 2010] **(a) The legislative**
 25 **services agency shall prepare legislation for introduction in the**
 26 **2011 regular session of the general assembly to organize and**
 27 **correct statutes affected by this act, if necessary.**

28 **(b) This SECTION expires December 31, 2011.**

29 SECTION 35. An emergency is declared for this act.

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